

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANNETTE WALKER-GOGGINS,
Plaintiff,
vs.
SOCIAL SECURITY ADMINISTRATION,
Defendant.

Case No. 2:15-cv-01839-JCM-CWH

REPORT AND RECOMMENDATION

This matter is before the Court on Plaintiff Annette Walker Goggins's ("plaintiff") Application for Leave to Proceed In Forma Pauperis (doc. # 6), filed February 17, 2015, Motion for Speedy Trial (doc. # 7), filed November 10, 2015, and Sealed Emergency Motion for Injunctive Relief (doc. # 3), filed October 13, 2015.

I. In Forma Pauperis Application

Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability to prepay fees and costs or give security for them. Accordingly, the request to proceed in forma pauperis is granted pursuant to § 1915(a). The Court now reviews plaintiff's complaint.

II. Screening the Complaint

Upon granting a request to proceed in forma pauperis, a court must additionally screen the complaint pursuant to 28 U.S.C. § 1915(a). Federal courts have the authority to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). A complaint, or portion thereof, should be dismissed for failure to state a claim upon which relief may

1 be granted “if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his
2 claims that would entitle him to relief.” Buckey v. County of Los Angeles, 968 F.2d 791, 794 (9th Cir.
3 1992). A complaint may be dismissed as frivolous if it is premised on a nonexistent legal interest or
4 delusional factual scenario. Neitzke v. Williams, 490 U.S. 319, 327-28 (1989). Moreover, “a finding
5 of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or wholly
6 incredible, whether or not there are judicially noticeable facts available to contradict them.” Denton v.
7 Hernandez, 504 U.S. 25, 33 (1992). When a court dismisses a complaint under § 1915(e), the plaintiff
8 should be given leave to amend the complaint with directions as to curing its deficiencies, unless it is
9 clear from the face of the complaint that the deficiencies could not be cured by amendment. See
10 Cato v. United States, 70 F.3d 1103, 1106 (9th Cir. 1995).

11 The facts alleged in plaintiff’s complaint are difficult to follow and incomprehensible. Plaintiff
12 contends that she received an unfavorable decision from Defendant Social Security Administration
13 (“defendant”), but fails to provide arguments or facts explaining the problem with defendant’s
14 decision, dated October 2, 2009. See Doc. # 1-1 at 1, 4-6. This Court’s review of the decision reveals
15 that defendant denied plaintiff’s request for social security benefits because her husband’s income was
16 too high, and plaintiff failed to rebut that finding at a hearing before the administrative law judge
17 (“ALJ”). Id. at 6. In addition, it appears another ALJ entered a decision in plaintiff’s social security
18 case on December 11, 2012, finding that defendant overpaid plaintiff for benefits in the amount of
19 \$17,181.00 during the period August 1, 2004 to March 30, 2007, but that defendant had waived the
20 overpayment. See Doc. # 1-1 at 15. Nevertheless, plaintiff asks for relief, including, \$400 million (tax
21 exempt), witness protection, the prosecution of all violators, a written apology, and 72 hours of
22 injunctive relief. Id. at 2. With respect to the latter, the injunctive relief requested appears to relate
23 to a separate motion for an emergency injunction (doc. # 3) in which plaintiff restates assertions in her
24 complaint and asks for injunctive relief from, among others, “domestic terrorism” and “ALL
25 unfavorable actions,” and seeks help for “black farmers.” Doc. # 3 at 2-3. Moreover, another motion
26 (doc. # 7) in which plaintiff requests a speedy trial appears to present information regarding plaintiff’s
27 marital status, but it is unclear what plaintiff is asking from this Court apart from the transfer of a
28 purported state court case involving “children” or “co-plaintiffs” to this Court to “resolve once and for

all justice.” Doc. # 7 at 2. Given such, the Court finds that plaintiff’s incoherent, fanciful, and delusional claims and descriptions do not state a claim upon which relief can be granted. The Court recommends that the complaint be dismissed with prejudice for failing to set forth any plausible claims, and that plaintiff not be given an opportunity to amend the complaint.

ORDER AND RECOMMENDATION

Accordingly, **IT IS HEREBY ORDERED** that plaintiff's Application for Leave to Proceed In Forma Pauperis (doc. # 6) is **granted**. Plaintiff shall not be required to pay the court filing fee.

IT IS FURTHER ORDERED that the Clerk of Court shall file plaintiff's complaint (doc. # 1-1) on the record.

IT IS FURTHER RECOMMENDED that plaintiff's complaint (doc. # 1-1) be **dismissed with prejudice.**

IT IS FURTHER RECOMMENDED that plaintiff's Motion for Speedy Trial (doc. # 7) be denied.

IT IS FURTHER RECOMMENDED that plaintiff's Sealed Emergency Motion for Injunctive Relief (doc. # 3) be **denied**.

NOTICE

This report and recommendation is submitted to the United States District Judge assigned to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation may file a written objection supported by points and authorities within fourteen days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely objection may waive the right to appeal the District Court's Order. Martinez v. Ylst, 951 F.2d 1153, 1157 (9th Cir. 1991).

DATED: December 18, 2015


C.W. Hoffman, Jr.
United States Magistrate Judge